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Fast-Track Regulation Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation(s)	2 VAC 5-30
Regulation title(s)	Rules and Regulations Pertaining to Reporting Requirements for Contagious and Infectious Diseases of Livestock and Poultry in Virginia
Action title	Fast-track action to amend this body of regulations in order to simplify, clarify, and increase compliance with animal disease reporting requirements necessary to protect Virginia's animal agriculture industry.
Date this document prepared	July 29, 2015

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Virginia has long had important and necessary regulations in place requiring the reporting of certain animal diseases of consequence. Diseases of consequence are those not present in the U.S. or are those with a high sickness rate or death rate, and are those diseases that are typically responded to with a quarantine and related measures as needed to prevent the spread of the disease. Often, it is important to quickly control these diseases in order to retain the ability to export animal products to foreign countries. Reporting compliance with diseases of consequence such as avian influenza, tuberculosis, or

brucellosis has been good, and this requirement is an important tool with respect to ensuring these diseases are reported promptly so that appropriate action can be taken.

There are also diseases of interest but not of immediate and widespread consequence that are currently required to be reported according to the regulation. These are diseases that are also described in some documents as “monitored” diseases, and are currently required to be reported under the “normal reporting” section of the regulation. Due to the impracticality of enforcing a requirement to report these “monitored” diseases, it is proposed that the “normal reporting” requirement be removed from the regulation. Under the current regulation, there is very little active reporting of these diseases, and no action is taken when reports are received. We are still interested in these diseases and intend to continue to monitor for their presence outside of the regulatory mechanism. As such, it would no longer be a regulatory requirement to report diseases such as Johne’s, Bovine Viral Diarrhea, Leukosis, Salmonellosis, or Giardia. Instead, we will continue to work with veterinarians and laboratories to monitor the presence of these “non-regulatory” diseases.

We propose to include the list of reportable diseases in the text of the regulation, as opposed to in a form referenced in the regulation. Additionally, we proposed to bring the list of reportable diseases in line with the U.S. Department of Agriculture’s U.S. National List of Reportable Animal Diseases, which is a suggested list of reportable diseases. The agency anticipates that this uniform list will enhance disease reporting compliance.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

VDACS – Virginia Department of Agriculture and Consumer Services

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On July 20, 2015, the Board of Agriculture and Consumer Services adopted amendments to 2 VAC 5-30, *Rules and Regulations Pertaining to Reporting Requirements for Contagious and Infectious Diseases of Livestock and Poultry in Virginia*.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.

Section 3.2-109 of the Code of Virginia establishes the Board of Agriculture and Consumer Services (Board) as a policy board and grants the Board the authority to adopt regulations in accordance with the provisions of Title 3.2 of the Code of Virginia.

Section 3.2-6002 of the Code of Virginia authorizes the Board to adopt regulations as may be necessary to prevent, control, or eradicate infectious or contagious diseases in livestock and poultry in Virginia.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The current regulations concerning the reporting of animal diseases in Virginia need minor revisions to align them with the current priorities and methodology of state, federal, and international animal disease and marketing programs. The proposed regulation will bring Virginia in line with current federal animal disease reporting requirements, protecting the continued viability of Virginia's animal industries. These animal disease reporting requirements are designed to quickly recognize a significant animal disease in Virginia thus allowing the rapid response that will be necessary to control the disease. This quick recognition and rapid response are essential in order to protect public health from potentially zoonotic disease as well as to protect the economic interests of animal agriculture producers in Virginia, who could be affected by high levels of sickness or death loss of their animals without this regulation in place.

Rationale for using fast-track process

Please explain the rationale for using the fast-track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

The proposed amendments are noncontroversial changes that are not expected to be opposed by any stakeholders. Veterinarians have questioned the likelihood of being penalized for not complying with the reporting requirement for "normal reporting," and there is widespread agreement among veterinarians that the normal reporting could be accomplished better outside of the regulatory mechanism.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.

- The "normal reporting" requirement is proposed to be removed. This section of the current regulation requires a laboratory or veterinarian to report diseases of interest to the State Veterinarian monthly. While we continue to be interested in these diseases, it is impractical to require reporting of them through the regulatory process.
- Updated language to clarify that when diseases are reported, they may be reported in person, by phone, or by e-mail within 24 hours to the State Veterinarian or a veterinarian in the employ of VDACS.
- The proposed amendments include a new section that will list the reportable diseases. Currently, the list appears in a form that is referenced in the regulation. The agency determined that this list should be included in the provisions of the regulation.
- We also propose to bring the list of reportable diseases in line with the U.S. National List of Reportable Animal Diseases; it is anticipated that this uniform list will enhance disease reporting compliance.

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

The primary advantages of the proposed revisions are to increase compliance with the regulation by simplifying it, and placing focus on areas that are most effective in mitigating animal disease introduction and resultant losses. Veterinarians in the Commonwealth will have burdensome requirements for monthly “normal reporting” removed. The removal of the “normal reporting” requirement will also allow the agency to focus additional resources on monitoring animal diseases of consequence. Thus, both the public and the agency benefit from the proposed changes.

The proposed revisions pose no disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements that exceed applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

The proposed regulation should have no impact on localities.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

Alternative regulatory methods have been analyzed, and the agency feels that the proposed regulation represents the least burdensome and simplest regulation to achieve the stated goals. These regulations are a crucial component of protecting Virginia’s agriculture industries and companion animal populations from being compromised by requiring the prompt reporting of any disease that could rapidly spread and cause public health concerns as well as economic losses to the livestock and poultry industries. As most of the stakeholders covered by this regulation are small businesses, it is not possible to exempt them from the regulation based on that status.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p>	<p>There is no anticipated cost to the state.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>There is no anticipated cost to localities.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>Laboratories and veterinarians will be affected.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>It is estimated that 5-10 laboratories within the state (including the 5 VDACS laboratories) and the approximately 2,000 licensed veterinarians in the state will be affected. Although VDACS does not collect data regarding the affected private laboratories' and veterinarians' gross annual sales, we estimate that the majority of these affected entities are small businesses.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>There are no projected costs.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Prompt reporting of important animal disease so that quick and appropriate action can be initiated to control the spread of disease.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Alternatives to the proposal include the following:

Maintaining the regulation in its current form. This alternative is not preferred. Though these changes are minor, failure to update Virginia's disease reporting requirements compromises the compliance rate of reporting significant animal diseases.

Removing all disease reporting requirements. This alternative is not acceptable given the considerable economic value of animal industries to the state as well as the value the public places on their companion animals. Were Virginia to eliminate disease reporting requirements, the Commonwealth's agriculture industries and companion animal population would be at risk.

The agency believes that the proposed regulation is the least burdensome approach to updating Virginia's animal disease reporting requirements.

Public participation notice

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Periodic review and small business impact review report of findings

If this fast-track is the result of a periodic review/small business impact review, use this form to report the agency's findings. Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

The agency received no comments during the periodic review public comment period that began on August 11, 2014, and ended on September 1, 2014. The regulation is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. This regulation was

last amended in 2008. The agency has determined that there is a continued need for the regulation, with some revisions. General comments from veterinarians over the years have included the sentiment that it is impractical and unnecessary to legally require reporting of diseases that are commonly seen, especially since no action is indicated to be taken when the diseases are reported. The current regulation is somewhat complex, since there may be some confusion between normal and special reporting; for this reason, the proposed regulation will be simpler as only the diseases that truly need to be reported will be required to be. The regulation does not overlap, duplicate, or conflict with any other federal or state law or regulation.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The agency estimates that overall the proposed regulatory action will have a neutral impact on family and family stability across the state. The agency recognizes that lack of adequate animal disease control can have a devastating impact on a farm family that depends on the Commonwealth's protection of its animals in maintaining profitability and economic stability. To the extent that the proposed regulatory changes provide greater protection for agricultural enterprises, these changes will provide greater financial stability for hundreds of families who depend on agricultural animals for income.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please list separately: (1) all differences between the pre-emergency regulation and this proposed regulation; and 2) only changes made since the publication of the emergency regulation.

For changes to existing regulation(s), use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10	N/A	Normal Reporting. This section requires veterinarians and laboratories to report the existence of certain diseases in livestock and poultry on a monthly basis.	Repeal entire section. It is impractical and unnecessary to require normal reporting as part of the regulation. These same diseases can be more effectively monitored outside of the regulation.
20	N/A	Special Reporting. This section requires veterinarians and laboratories to report the existence of certain diseases	Minor language changes are proposed. These include: (1) clarifying that diseases should be reported to the State Veterinarian or any veterinarian in the

		in livestock and poultry within 24 hours of discovery.	employ of VDACS; (2) the removal of several specific examples of disease to report with the broader statement intended to encompass any diseases of importance for which immediate notification is indicated.
N/A	30	N/A	We propose to include the list of reportable diseases in the regulation. Currently, the regulation references a form that includes the list of reportable diseases. Including the list in the regulation will assist regulants in understanding and complying with the regulation.